

**REMARKS**

Claims 1-24 are pending in the current application and are presented for reconsideration.

By this Amendment, Applicant has not amended any claims, but instead makes the following remarks in response to the final Office Action and requests reconsideration of the claims as presented.

Applicant respectfully makes assertions for overcoming the rejections of the outstanding Office Action dated December 15, 2006 in the following paragraphs.

**I. Claim Rejections Under 35 U.S.C. §112**

Claims 22 and 23 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The rejection states that claims 22 and 23 contain subject matter which was not described in the specification in such a way as to convey reasonably to one skilled in the art that the inventor at the time the application was filed, had possession of the claimed invention. Specifically, the rejection specifies that the claims 22 and 23 disclose the features of a stretchable gather with a “a strain relief characteristics greater than the strain relief characteristics of adjacent parts thereof, to dampen the pulling stress of the said zipper in an open position”. The Office Action, further states that this was not disclosed in either the drawings or the specification.

**A. The Claims of Original Disclosure Mentions Stretchable Characteristics**

Applicant respectfully disagrees with this office assessment of the disclosure in the original specification. It is Applicant's position that the stretchable gather is explicitly stated in the specification, in the drawings, and also more importantly, in the claims. Applicant directs the Examiner to note that the original claims 22, 23, and 24 specifically mention "stretchable gather", "elastomeric connector", and "elastic fabric" respectively. Applicant further takes the note of a dictionary reference wherein "stretchable" is defined as "to extend or enlarge beyond the usual or proper limits". Further, the same dictionary reference states "elastomer" as being any of various elastic materials that resemble rubber (resumes its original shape when a deforming force is removed). Finally, the "elastic" of claim 24 is defined in the dictionary reference as being easily resuming original shape after being stretched or expanded or capable of adapting to change or a variety of circumstances, a flexible stretchable fabric made with into woven strands of rubber or a fiber.

**B. The Drawing Figures Also Show Stretchable Characteristics**

Therefore, it is clear that the application as originally submitted contains enough disclosure to state the relief characteristics of the stretchable gather as well as the characteristics of adjacent parts thereof. Any person skilled in the art will immediately recognize that these characteristics are also inherent in the drawing figures as well. For instance, Figure 7 shows parallel lines extending away from the stretchable gather. This clearly indicates that the

stretchable gather has certain elastomeric properties. Therefore, Applicant requests that the Examiner reconsideration and withdraw this rejection.

Claims 6-9 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the rejection states that it is unclear how the hold down page as referred to, in the claim 6, lines 2 and 3, is anchored to the spine, when the ring binders connected to the hold down page do not contact the spine.

**C. Various Hold Down Page Configurations Are Included in the Original Disclosure**

Applicant directs the Examiner to page 12, lines 5 to 7 of the original disclosure, wherein it states as follows:

*“Various alternatives are contemplated as being within the scope of the following claims particularly pointing out and distinctly claiming the subject matter regarded as the invention”.*

It is fully within the different embodiments of the present invention that the releasable latch can be placed on either the cover or on the spine. In essence, the releasable latch can be made of two parts, where one part is provided on a corner of the hold down page closest to the spine and the other side of the releasable latch may be provided on the spine itself, regardless of its effectiveness. Therefore, it is fully within the confines of the present invention. However, if the Examiner is prepared to allow claim 6 with just one of the embodiments, specifically, the covers, Applicant respectively requests that the Examiner make this clear with “Allowable

Subject Matter” heading. Then, Applicant will emphasize the feature of the releasable latch being anchored to only the covers to further the prosecution of the current application.

## **II. Claim Rejections Under 35 U.S.C. §102**

Claims 1-3 and 20 have been rejected under 35 U.S.C. §102(b) as being anticipated by DE 43 39 929 C1 to Lehnert (the “Lehnert ‘929” reference, hereinafter).

The Lehnert ‘929 reference discloses a ring file binder system for receiving documents, where the ring file arrangements of the ring mechanisms is designed with sliding configuration and provided with variable distances in relation to the edge of the cover. Because of the manner in which this feature was emphasized in the Lehnert ‘929 reference, it is clear that the reference requires a configurable movement of the ring mechanism within the tractions on the cover itself.

### **A. Covers of Lehnert ‘929 Can Not Pivot 90 Degrees Against Its Spine**

It is Applicant’s position that the Lehnert ‘929 reference does not anticipate nor does it suggest the present invention as claimed. Specifically, the Lehnert ‘929 reference fails to provide for a pair of covers which can be **pivoted 90 degrees** against a spine. Applicant has reviewed the Lehnert ‘929 reference from beginning to the end and could not find a cover-spine-cover combination where the two covers can be pivoted against the spine in 90 degrees. Instead, the Lehnert ‘929 reference discloses a spine having a range or a plurality of scores which provides a configuration of an oval shape for the hinge itself when viewed from an end. Due to

such arrangement, the pivoting surface cannot approach anywhere near 90 degrees or above unless the covers overlap each other which is an impossibility for a cover. In fact, according to the drawings, the pivoting section where the hinge and the cover meets would approach somewhere around 120 degrees but not less. Because the Lehnert '929 reference fails to disclose the important feature of claim 1, the Lehnert '929 reference fails to anticipate the present invention of the Applicant. Applicant respectfully requests reconsideration of the rejection of claim 1.

Claims 2 and 3 depend on claim 1 and also include the combination of features which make the claim 1 inventive. Therefore, the Lehnert '929 reference also fails to anticipate or suggest the features of claims 2 and 3.

Claim 20 has also been rejected under 35 U.S.C. §102(b) as being anticipated by the Lehnert '929 reference. The office rejection is based on the position that all of the features present in claim 20 is provided for in the Lehnert '929 reference. According to the Office position, this would include "*a plurality of pairs of scores formed in a surface of the board with one of said hinges dividing said board into a first cover and a spine and the other one of said hinges dividing said board into a second cover and said spine...*". This combination of features set forth in claim 20 makes it clear that the particular embodiment includes a "cover-hinge-spine-hinge-cover" combination.

**B. Lehnert '929 Does Not Disclose Pairs Or Separate Hinges**

Applicant respectfully disagrees. Applicant has reviewed the Lehnert '929 reference and finds that there is no distinction between the scores and the spine in Lehnert '929. Applicant respectively directs the Examiner to claim 20, wherein it clearly states that a pair of hinges divide a board into a first cover and a spine and another cover and a spine. Further, the claim 20 specifies the important feature of the hinges being defined by a plurality of pairs of scores. In contrast, the Lehnert '929 reference provides for a spine with a set of scores in the inner portion. However, the Lehnert '929 reference provides for the scores on the spine itself and, thus, the reference does not provide separate hinges. Thus, there is no separate element of the hinges and the spine in the Lehnert '929 reference. Further, there is no indication that the scores are provided in parallel with a pair of each score constituting one set. Absent such feature, the Lehnert '929 reference fails to anticipate and also fails to suggest the present invention as claimed.

Claims 22-24 have been rejected under 35 U.S.C. §102(b) as being anticipated by the U.S. Patent No. 6,488,433 to Wien et al. (the "Wien et al. '433" reference, hereinafter). The Wien et al. '433 reference provides for a covered binder assembly with a front cover, a rear cover, and a spine connecting the front and the rear covers. A closure arrangement is provided to facilitate the closing of the opening between the front and the rear covers. The office takes the position that the Wien et al. '433 reference discloses all of the features including the stretchable

gather or connector. This is in light of the Examiner's position that he did not give the combination of features of "a strain relief characteristics greater than the strain relief characteristics of adjacent parts thereof, to dampen the pulling stress of the said zipper in an open position" as set forth in claim 22 any patentable weight as there being no indication that the inventors had the position of the claimed invention at the time the application was filed.

**C. Wien '433 Does Not Disclose Stretchable Gather Characteristics**

Applicant respectfully disagrees with this assessment. The claims as originally filed provides for "elastomeric connector" in claim 23, "stretchable gather" in claim 22, and "elastic fabric" in claim 24. As stated above, a standard web dictionary (<http://www.thefreedictionary.com/>) defines the "elastomer" as being any of various polymers having the elastic properties of natural rubber (resumes its original shape when a deforming force is removed). Further, the same dictionary defines the "stretchable" as being made of an elastic material that stretches easily. Finally, the dictionary also defines "elastic" as being easily resuming its original shape after being stretched or expanded. Thus, it is clear that the claims as originally presented as well as the specification show that the inventor had the possession of the claimed invention at the time that the application was originally filed. The emphasis on the feature "a strain relief characteristics greater than the strain relief characteristics of adjacent parts thereof, to dampen the pulling stress of the said zipper in an open position" only delineates and further clarifies the characteristics of the elastomer or elastic fabrics. It does not provide for any

new matter. Therefore, Applicant respectfully requests that the Examiner reconsider the decision to not consider the feature emphasized in the last Amendment.

Since the Wien et al. '433 reference fails to disclose any dampening material which provides a strain relief characteristics as set forth in the claims 22 to 24, Wien et al. '433 cannot anticipate nor could it suggest the present invention as claimed in claims 22 to 24.

### **III. Double Patenting**

Claims 1 and 6 to 9 have been rejected under grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 46-49 of co-pending Application No. 10/858,280. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose a binder arrangement comprising a pair of covers carried by a spine, a first binder carried by one of the covers, a second binder carried by the other cover, at least one of the binders having a hold down page, wherein the hold down page has a latch strap and the cover has a latch receiver, wherein the latch strap end receiver is a hook and loop fastener.

It is Applicant's position that the two sets of claims are distinctive from each other and thus, the above double patenting rejection should be withdrawn. However, Applicant is ready to provide a terminal disclaimer to obviate the claim rejection. Since none of the claims have been allowed, the above rejection can not apply to the current set of claims. Once the above claims



are allowed, Applicant will submit a terminal disclaimer extending from the first set of allowed claims.

Claims 1 and 10-12 have been provisionally rejected under grounds of non-statutory obviousness-type double patenting as being unpatentable over claim 46 of co-pending Application No. 10/858,280 in view of Wien et al. '433 reference. The Examiner takes the position that both Applications comprise a binder arrangement comprising a pair of covers carried by a spine, a first binder carried by one of the covers, a second binder carried by the other cover. The Examiner admits that the Application '280 does not disclose a case that includes flexible sidewalls that comprise a skirt that expands along the side edges of each cover, wherein the skirts are releasably attached to one another by a zipper that is elastically anchored to the spine by a gather or connector. The Examiner further relies on the Wien et al. '433 reference to suggest a stretchable gather or connector that attaches one end of the zipper to the spine (g). Applicant has noted the "gather" as defined by the Examiner in Figure 2. However, there is no indication either in the drawings or in the specification of the Wien et al. '433 reference to suggest that the element as designated as being "gather" by the Examiner is stretchable by any means. In contrast, the Applicant's application specifically states that the gather is stretchable or elastic in several of the claims. Furthermore, the drawings show the lines coming out from behind the stretchable gather so that it clearly shows that the gather is disclosed by the Applicant's invention is stretchable. Thus, the claims 1 and 10-12 cannot be anticipated nor could it be obviated by the combination of the U.S. Patent No. 10/858,280 in view of the Wien et

al. '433 reference. Thus, Applicant respectfully requests that the Examiner reconsider the provisional obviousness-type double patenting rejection and withdraw the rejection itself.

#### **IV. Claim Rejections Under 35 U.S.C. §103**

Claims 4 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Lehnert '929 reference. The Examiner takes the position that the Lehnert '929 reference discloses all of the elements of claim 1. Further, the Examiner takes notice that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset of any desirable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

#### **A. Lehnert '929 Does Not Suggest Features of Claims 4 & 5**

As noted above, the Lehnert '929 reference fails to anticipate nor does it suggest the inventive features of claim 1. Because claims 4 and 5 depend on claim 1 and include all of the inventive features of claim 1, Lehnert '929 reference also fails to disclose or make obvious the features of claims 4 and 5. Furthermore, the Lehnert '929 reference discloses a set of tracks which are fixed and can be adjusted only where the rails exist. In contrast, the manufacturer design is optimal. Once the binder has been affixed to the cover, it cannot be moved or removed. Thus, the two devices are totally different from each other and the present invention teaches

away from the Lehnert '929 reference apparatus. Thus, it is Applicant's position that the Lehnert '929 reference fails to anticipate or suggest the claims of 4 and 5.

Claims 6-9 and 21 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over the Lehnert '929 reference in view of the Welch 364,640 to Zimbelman (the "Zimbelman '640" reference, hereinafter). The Zimbelman '640 reference provides for several views of a binder for large sheets in a fully open position. The Examiner admits that the Zimbelman '640 reference discloses the hold down page is equipped with a releasable latch receiver that releasably anchors to one of the covers to hold down page through the latch strap. The Examiner then suggests that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Lehnert '929 reference with the Zimbelman '640 reference to provide a binder arrangement with a hold down page for providing storage separators.

**B. Zimbelman '640 Can Not Suggest Different Sized Papers**

Applicant respectfully disagrees with this assessment. The Zimbelman '640 reference provides for a hold down page that is strictly configured with a full length and full width size of the cover itself. Thus, Zimbelman '640 teaches away from the present invention where different size papers are provided for which are smaller than the size of the covers. The different sizes hold down pages at different parts of the cover. Therefore, the hold down page offers features which are different from the Zimbelman '640 elements. Thus, the hold down page of the present

invention is not obvious over the Lehnert '929 reference in view of the Zimbelman '640 reference. Furthermore, the hold down page at different edges would not be possible with the Zimbelman '640 reference. For instance, if the latch and the strip wire provided at the top portion of the cover instead of at the outer extension of the cover, such feature would make it impossible to use the Zimbelman '640 reference. Thus, the Zimbelman '640 reference fails to suggest the present invention as claimed in combination with the Lehnert '929 reference.

Claims 1 and 10-12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Lehnert '929 reference in view of the Wien et al. '433 reference. The Examiner admits that the Lehnert '929 reference fails to disclose flexible sidewalls that include a skirt that extends along the side edges of each cover, one skirt releasably attach to the other skirts by a fastening arrangement that is elastically attached or anchored to the spine by a gather. However, the Examiner relies on the Wien et al. '433 reference to disclose this feature.

**C. Lehnert '929 Does Not Suggest Such Combinations**

Applicant respectfully disagrees with this assessment. It is Applicant's position that claims 1 and 10-12 are not anticipated by the Lehnert '929 reference. Furthermore, because claims 10-12 depend from claim 1 the claims 10-12 include all of the features of claim 1. Therefore, claims 10-12 cannot be anticipated by the Lehnert '929 reference and Lehnert '929 reference cannot be combined with the Wien et al. '433 reference to obviate the claims 10-12.

Therefore, none of the references including the Lehnert '929 reference and the Wien et al. '433 reference anticipate or suggest the present invention as claimed in claims 1 and 10-12.

Claims 13-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Lehnert '929 reference in view of the U.S. Patent No. 6,209,917 to Welch (the "Welch '917" reference, hereinafter). The Welch '917 reference discloses a binder construction composed of two plastic sheets forming a sandwich where the air between the plastic sheets and the boards is pressed or vacuumed out and hinges are hydraulically created using three moving blades to provide the hinges. This reference also shows the hinges extending all the way through the spine of the binder in contrast to the features of the present invention as claimed. The Examiner admits that the Lehnert '929 reference does not disclose the hinge comprising a plurality of scores or slits formed in the interior surface of the board, wherein the board is comprised of a fibrous material, or a kraftboard, wherein the scores define a region that is compressed to a thickness less than the surrounding thickness of the boards, and wherein the spine can include any desirable number of scored hinges. The Examiner then relies on the Welch '917 reference to disclose all these features.

**D. The Scores Or The Slits Are Structured Differently**

Applicant respectfully disagrees with this assessment as well. As noted above, the Lehnert '929 reference fails to anticipate the independent claims from which the claims 13-19 depend on. Therefore, the Lehnert '929 reference cannot be combined with the Welch '917

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reference to disclose the features of claims 13-19. Additionally, the claims 13-19 provide for features which are distinctive from the features disclosing the Welch '917 reference. For instance, the scores or the slits are formed not only on the interior surface of the board but they are formed as part of the hinges. The scores of the Welch '917 reference is provided all throughout the width of the spine. Thus, the hinges of the Welch '917 reference cannot be combined with the Lehnert '929 reference to anticipate or suggest the present invention as claimed.

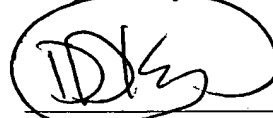
As the prior art of references fails to suggest the combination of features as claimed, Applicant respectfully requests that the Examiner reconsider the rejections in view of the discussion above. Applicant respectfully solicits allowance of this application.

It is Applicant's position that all claims are now allowable. Should the Examiner determine that issues remain that have not been resolved by this response, the Examiner is requested to contact Applicant's representative at the number listed below.

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Favorable consideration is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DK' with a flourish, enclosed within a hand-drawn oval.

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